

DIRECTOR OF CENTRAL INTELLIGENCE DIRECTIVE 2/13

Communications With Congressional Committees Regarding
Intelligence Information Related to Law Enforcement Matters

(Effective 7 November 1995)

Pursuant to the provisions of the National Security Act of 1947 and Executive Order 12333, policies and procedures are herewith established to ensure advance coordination between the intelligence and law enforcement communities regarding communications by the Intelligence Community (IC) with Congressional committees pertaining to ongoing law enforcement investigations or criminal prosecutions.

1. Purpose

Sections 501 and 502 of the National Security Act of 1947, as amended, require the President and the DCI to fully inform the House Permanent Select Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI) regarding "all intelligence activities." Further, Section 501 requires that the President report illegal intelligence activities and corrective action to these committees, while Section 502 requires the DCI to report any "significant intelligence failure."

2. Policies and Procedures

Where intelligence information to be provided to a Congressional committee relates to a possible crime or may impact upon ongoing criminal investigations or prosecutions, the IC must be mindful both of its reporting responsibilities under Sections 501 and 502 and the responsibility of the Executive Branch to ensure the integrity of the criminal process. In order to meet both responsibilities, IC elements must observe the following policies and procedures.

- a. IC elements, including intelligence components of the Department of Defense, shall notify the Assistant Attorney General, Criminal Division, or his/her designee, and the congressional affairs or General Counsel offices at the headquarters of any federal law enforcement agency involved in an ongoing criminal investigation or prosecution prior to providing to a Congressional oversight committee any information relating to an ongoing criminal investigation or prosecution. IC elements shall thereafter coordinate with the Assistant Attorney General, or his/her designee, and the affected

law enforcement agencies in order to ensure that the information provided to the oversight committee does not adversely affect the criminal investigation or prosecution.

- b. IC elements, including intelligence components of the Department of Defense, shall immediately notify the Assistant Attorney General, Criminal Division, Department of Justice, or his/her designee, and the congressional affairs or General Counsel offices at the headquarters of any federal law enforcement agency involved in an ongoing criminal investigation or prosecution when requested by a non-oversight committee of Congress to provide any information relating to an ongoing criminal investigation or prosecution. Prior to any response to that request that includes information relating to that criminal matter, IC elements, in coordination with the Assistant Attorney General and the affected law enforcement agencies, shall notify the SSCI or HPSCI of the request by a non-oversight committee and request advice and assistance in responding to the request. IC elements shall thereafter continue to coordinate with the Assistant Attorney General, or his/her designee, and the affected law enforcement agencies in order to meet any obligation to a non-oversight committee without adversely affecting the criminal investigation or prosecution.
- c. Disagreements between an IC element and the Department of Justice regarding the appropriateness of providing specific information to Congress may be referred for resolution to the Attorney General and either the Director of Central Intelligence, or, in the case of Department of Defense components, to the Secretary of Defense. In the event that the affected law enforcement agency is a Department of Treasury agency, resolution of a disagreement regarding a response to a Congressional committee's request for information shall also include the Secretary of the Treasury. The party seeking any such resolution shall notify the other party in advance of its intent to do so.

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- d. Nothing herein shall be interpreted as modifying in any way the requirements of the "third agency rule" pertaining to the disclosure of classified information.

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